

The 6th February, 1978

No. 979-3Lab-78/1213.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak).

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,  
FARIDABAD

Reference No. 4 of 1973

between

THE WORKMEN AND THE MANAGEMENT OF M/S SUPREME STEEL ROLLING AND ALLIED  
INDUSTRIES, BAHADURGARH (ROHTAK).

Present.—

Shri Rajinder Singh Dahyia and Shri Sagar Ram Gupta, for the workmen.  
Shri Surinder Kaushal, for the management.

#### AWARD

By order No. ID/RK/201-A-72/1972, dated 18th January, 1973 the Governor of Haryana, referred the following disputes between the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak) and its workmen to this Tribunal for adjudication in exercise of the powers conferred by clause (d), sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

- (1) Whether the workers should be provided attendance cards ? If so, with what details ?
- (2) Whether the workers should be given heat allowance ? If so with what details ?

On receipt of the order of reference notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, the following issues were framed by my learned predecessor on 13th August, 1973 :—

- (1) Whether the dispute the subject matter of the present reference has not been properly espoused in accordance with the scheme of the Industrial Disputes Act, 1947 ? If so, with what effect ?
- (2) Whether the above dispute was withdrawn by the workman concerned ? If so, with what effect ?
- (3) Whether the workers should be provided attendance cards ? If so, with what details ?
- (4) Whether the workers should be given heat allowance ? If so, with what details ?

The case was set for the evidence of the management. The management examined Shri Rajinder Singh Dahyia, President, Bahadurgarh Potteries and General Labour Union as M.W. 1 who did not bring the records and could not produce the file relating to the case. He could neither produce the proceedings book or the proforma of the membership of the union. He stated that demand notice was given after decision arrived at a meeting of the union called for that purpose and that the demand notice was signed by him. He stated that the union was of employees of all the Industries at Bahadurgarh. He did not send the resolution along with notice of demands to the management. He stated that meeting was held 3/4 days before the date of notice of demands and that meeting was the meeting of the members of the executive although the workman of this management had also joined. He stated that the records could be produced on any other day. The representative of the management had prayed for direction to the witness to produce the record but that was disallowed by my learned predecessor. In cross examination this witness stated that 35 workmen of the management out of 50 to 55 were members of the union and that 20/22 workmen were present in that meeting. The management then examined Shri Harbans Lal, Manager as M.W. 2 who stated that he had talked with Sarvshri Lachman Singh, Prem Sagar, Bisham and other workmen after the receipt of demand notice and they had expressly told him that they were not a party to raising these demands leading to this reference. He produced an application signed by about 15 workmen stating that they had no demands, this application is Ex. M-2. He stated that this application correctly bear the signatures of the workmen. He further stated that there were 42 workmen including casual workmen on their rolls during the month of July, 1972. In cross-examination he stated that they made payment to the Contractors on piece rate basis and weight basis and the employees of the Contractors are not entered in their register. Their loading and un-loading work is also done by contractors and the employees of those contractors are also not on their rolls. He further stated that their workmen used to carry the cut goods to the furnace. In re-examination he stated that cutting of iron ingots and loading and unloading of good is got done occasionally through contractors.

This evidence was led by the parties on issues Nos. 1 and 2. Then the case was fixed for the evidence of the workmen on issues Nos. 3 and 4 and rebuttal of issues Nos. 1 and 2.

The workmen examined Shri Sabha Pati a workman of the respondent who stated that his services were terminated with effect from 20th October, 1972. He stated that he never entered into any settlement with the respondent in respect of these demands. He stated that they had raised a demand for supply of attendance cards and the same are supplied to other workmen in other factories at Bahadurgarh. He further stated that he worked as a Tongasman which entails arduous work in the heat, which affects health. In cross-examination he stated that he was working then in Sonapat factory and has not brought attendance cards supplied to him by that management. He also did not bring attendance cards supplied to him by Partap Mills Bahadurgarh. He further admitted in cross-examination that in other factories at Bahadurgarh named M/s Jay Cee Forgings and Steel Rolling Mills, Bahadurgarh, he was not supplied attendance cards and that he joined the management with the knowledge that he had to work in heat atmosphere. The workmen then closed their case.

Then the case was fixed for rebuttal of issues Nos. 3 and 4 by the management by my learned predecessor. The management examined one Shri Malik Singh, office assistant of M/s. Jay Cee Steel Rolling Mills as M.W. 3 who stated that no attendance cards are issued by that management to their workmen, nor heat allowance is paid. In cross examination he stated that he supervise the work of the employees and that he was not concerned with payment of wages and that there were about 10 steel mills in Bahadurgarh. Then the management examined Shri Harbans Lal as M.W. 4, recalled M.W. 2 who stated that the factory of the management had been closed on 16th December, 1975 and functioned only by that date and he was not in the service of the management thereafter since then. He further stated that the workman working in heat process were allowed rest for one hour after doing work for one hour in view of hard nature of their work. He further stated that no steel mills in Bahadurgarh was issuing attendance cards and paying heat allowance.

In cross-examination he stated that no factory by the name of M/s. Supreme Steel Rolling and Allied Industries Bahadurgarh was being run at that time although a factory by the name of M/s. Supreme Steel General Mills Bahadurgarh is running but he denied that any partner of this management is a partner of M/s. Supreme Steel General Mills. He further stated that he did not know the names of the partners of M/s. Supreme Steel General Mills. He further stated that he was the Manager till the date of closure of the business of the management and that they had served a notice of closure on the persons concern, according to law. He further stated that they did not send notice of closure to the Income Tax Authority. The management then closed their case, and the case was fixed for arguments.

During arguments it was found necessary to re-cast Issue No. 2. So it was recast, as under on 24th February, 1977.

(2) Whether the demand under reference had been withdrawn by the workmen before the Conciliation Officer? If so, with what effect?

It was also deemed necessary to frame another issue which was framed as under :—

(5) Whether the union raising the demand under reference had locus standi or authority to raise the demand?

The case was then fixed for the evidence of the parties. The workmen again examined Shri Rajinder Singh Dahyia, President, Bahadurgarh Potteries and Genral Labour Union as W.W. 5 who stated that the workers of the management were members of their union. A meeting of the working committee of the union had taken place regarding demands under reference and resolution was adopted to raise these demands. He produced copy of letter of authority, Exhibit W-1 which was in his favour. He stated that Exhibit W-1 was signed and thumb-marked by the members of the union who were workers of the management. The demand notice was sent to the Conciliation Officer, conciliation proceedings were started on 2/3 occasions but conciliation failed. In cross-examination he stated that members of their union fill up forms of membership and given to them and then they enroll them as members of the union. The union had got a constitutor but they did not produce any copy thereof. He admitted that the union maintains the membership register but he did not bring that too. He could not tell the period when the persons thumb-marking and signing Exhibit W-1 were enrolled members of the union. He admitted that they had membership form duly filled in the office of the union but they did not bring them. He stated that Exhibit W-1 was signed and thumb marked on 26th July, 1973 for raising the demands and that Exhibit W-1 is the duplicate copy of the form of authority which they keep for their records. He further stated that meeting is called after pasting notice of meeting on the notice board and sending intimation to the members. He further stated that the meeting had taken place 3/4 days prior to the demand notice. He further stated that they did not know as to how many days prior to the convening of the meeting, notice in relation thereto was sent. He further stated that minute book is maintained but they did not bring that too. He deposed by memory that 20 or 22 persons had attended that meeting. He could not tell as to when a previous meeting, to the meeting to raise the demands, was held. He could not tell as to how many members had attended the said previous meeting and the next meeting after the meeting in question. He stated that he did not remember that he had stated previously that the meeting in question was the meeting of the union. He deposed that members pay subscription and the union issued receipts but they did not bring the counter foils of the receipts. He denied the suggestion that he did not bring the records in order to conceal the facts that no meeting had taken place for the purpose. He admitted that in Exhibit W-1 the demand and resolution are not described nor in an other copy of letter of authority. Then the workmen closed their case.

The representative for the management made a statement that he did not want to give any other evidence. Then the case was fixed for arguments. Arguments were heard.

I have gone through the evidence of the parties oral as well documentary and their pleadings. I now give my findings issue-wise.

**Issue No. 1.**—Ex. W 1 is the letter of authority in favour of Shri R.S. Dahyia and Shri C.S. John. It was produced before the Tribunal on 12th April, 1977. The acceptor Shri C.S. John has put date under his signatures as 26th July, 1972 but the figure 2 of the year seems to have been over written. There seems to be some alteration in this figure relating to the year. Shri R. S. Dahyia as W.W. 5 stated on 12th April, 1977 while producing this documents, that this document Ex W-1 was signed and thumb marked on 26th July, 1973. The year 1973 on Ex. W-1 seems to have been altered to year 1972. Ex. W-1 bear no date at any other place. There is Ex. M-2 produced by the management which bears the signatures of about 15 workmen. Some of the signatures such as Bachitar Singh, Muna Lal and Man Singh resembled with the signatures on Ex. W-1. Ex. M-2 states that the signatories were not members of any union and no union had authority to raise demands for them and that they were negotiating with the management directly and that they had no dispute of any kind or relating to the demand notice dated 26th July 1972 and withdraw the said demand notice, dated 26th July, 1972. Ex. M-2 is copy of the original addressed to Shri M.K. Jain, Deputy Labour Commissioner, Haryana, Chandigarh. The statement of Shri Rajinder Singh Dahyia as M.W. 1 and W.W. 5 is not convincing. He has deposed orally but has withheld all the documents inspite of his admission that the said documents were in his possession that is, in the office of the union. This union witness was examined as M.W. 1 on 12th December, 1975 and then also he had, not brought any record of the union. Thereafter he was examined as W.W. 5 on 12th April, 1977, after a period of one year and 4 months and then also he did not bring any record of the union, except a letter of authority Ex. W-1. It seems that this letter of authority was procured from the workman after the demand notice, otherwise it could be produced by him when he was examined for the first time on 12th December, 1975. All the records relating to membership forms, subscription receipts, proceedings book, notice etc. have all been withheld by him. But Ex. W-1 is signed by about 31 workmen, I think there is sufficient spousal. As regards the time of spousal I am not in a position to decide that these 31 workmen espoused the demand before the demand was raised, because Shri Rajinder Singh Dahyia as M.W. 1 and W.W. 5 has himself stated that 20/22 workmen of the management attended that meeting which was called for raising the demand, how then it is possible that 31 workmen signed Ex. W. 1 prior to that meeting when that meeting was attended by 20/22 workmen. I, therefore, am of the view that Ex. W-1 has been obtained after the demand was raised. I, therefore, hold that the demand was not properly raised and there was no sufficient spousal prior to raising the demand. I decide this issue accordingly.

**Issue No. 2.**—The management has placed Ex. M-2 on the file by which the workman have withdrawn the demand. It is a copy bearing signatures and thumb-impression of 15 workmen, some of whose signatures resembled with some of those on Ex

W-1. Some of the names in Ex. M-2 and Ex. W-1 are different, but Ex. W-1 bear the signatures and thumb marked of 31 workmen whereas Ex. M-2 bear the signatures of 15 workmen. Maximum it can be said that 15 workmen have withdrawn the demand. The demands are general which affect all the workmen, so it is concluded that all the workmen have not withdrawn the demand. I, therefore, decide this issue accordingly.

*Issues Nos. 3 and 4.*—Issues Nos. 3 and 4 relates to demands and disputes. Therefore, I discuss them together. W.W. 1 Shri Sabhapati had stated that attendance cards are supplied to all other workmen of other factories at Bahadurgarh such as Partap Mills etc. He has stated that his work was arduous in the heat and effected health. He could not produce any attendance cards issued by any factory although he worked in two more factories. He admitted that his job is intermetent after an interval of one hour rest after one hour work each time and in the rest hour, another workman works. He further stated that in absence of attendance cards proper wage were not paid. M.W. 3 an office assistant of another Steel Rolling Mills stated that neither heat allowance is paid to the workman of that factory, nor attendance cards are issued by that management. M.W. 4 stated that the management closed their business on 16th December, 1975 and it did not function thereafter and he was not in their service thereafter and that one hour rest intermetently each time after one hour work is given to the workmen, and at Bahadurgarh no factory or mills issues attendance cards or pays heat allowance. This is only evidence on these two issues. Issuance of attendance cards by other factories at Bahadurgarh and payment of heat allowance by other factories at Bahadurgarh, of the same type and nature, is not proved on the file. Although I think it is proper to issue attendance cards in order to safeguard of the interest of the workmen. It is proved that factory of this management has been closed on 16th December, 1975 and there is no rebuttal of this fact in the evidence of the workmen. In view of the closure of the factory of this management, I am not in a position and therefore can not award issuance of attendance cards and payment of heat allowance by this management. It has come in evidence that the factory named and styled as M/s Supreme Steel General Mills is running but that is different person, who is not before me and this reference has not been made in respect of him, therefore, also I can not award these demands by M/s Supreme Steel General Mills. I am un-concerned with M/s. Supreme Steel General Mills. I, therefore, decide these issues accordingly.

*Issue No. 5.*—There is no evidence on this issue by either of the parties. I, therefore, not decide this issue for want of evidence in favour of the workmen, even the membership of the union concerning the workmen of the factory of the management is not proved. I therefore, give my award as follows :—

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That the factory of the management is closed on and from 16th December, 1975, and therefore, I do not award these demands in favour of the workmen against the extinct management.

Dated the 20th January, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

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Endorsement No. 68, dated the 24th January, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 24th January, 1978.

NATHU RAM SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

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G. V. GUPTA, Secy.